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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/800,358

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Edward George Callway

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EXAMINER

BOCCIO, VINCENT F

ART UNIT

PAPER NUMBER

2158

MAIL DATE

DELIVERY MODE

06/02/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/800,358	Applicant(s) CALLWAY ET AL.	
	Examiner Vincent Boccio	Art Unit 2158	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE, Amend & Resp of 4/30/2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-15 is/are allowed.
- 6) ☒ Claim(s) 16-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 2158

Response to Arguments

1. Applicant's arguments with respect to amended claims 16-22 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

2. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kori et al. (US 5,778,064) in view of Shear et al. (US 2001/0042043).

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Regarding claim 22, Kori in Fig. 8, discloses and meets the limitations associated with a method comprising:

- processing receiving data including content protection coding signifying a first level (table Fig. 2 B, bits 11 and/or 10, two levels) of content protection, in a data processing system (see Fig. 8, "VBI dec. 51", "A/D 54", "A/D 52", "video signal process 55", "audio signal process 53" etc.);
- independently (processing Independently, processing element AGC 49, Fig. 8 is independent of the access parameter and meets the limitation as recited) of the content protection coding in the received data, imposing on the processing system a requirement for receiving data to be subject to a second level (Table Fig. 2 B, bits 11 and/or 10, two levels) of content protection and restricting based on the level selected (Fig. 2 B, two protective levels One is Invalid for Copy and a second of One Copy, ONLY, a third operation Not copy Protected Valid for Copy Operation or not protected at all).

As argued referencing amended claim 22:

o wherein imposing on said processing system a requirement for the received data to be subject to **a second and different level of content protection**, Kori fails to anticipate the amended limitation.

Shear teaches rights management and conforming to CGMA (abstract), and provides control sets (Fig. 3 B, Copy Once and Allow Frames For Use BY JOURNALISTS, Viewing CERTAIN STILLs and Offers), where there are independent of the incoming signal, see Fig. 3 A, Fig. 7, Fig. 12, Rights Broker which can also extend rights, page 7, bartered, sold, as taught by Shear.

Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify Kori by extending and providing various rights per content type, as taught by Shear to allow for extending and more various rights to enhance exposure to content to enhance revenue.

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3. Claims 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kori et al. (US 5,778,064) in view of Official Notice Taken (supporting reference provided US 4,593,384) and further in view of Shear et al. (2001/0042043)

Regarding claims 16-18, Kori in Fig. 8, discloses and meets the limitations associated with a method of video system with controller, to protect access to video data received from an analog video signal that includes an embedded data access parameter comprising:

- receiving an indication of data access restriction for stored video data that is stored in memory, based on the embedded data access parameter, wherein the stored digital video data (Fig. 8, "13") does not include the embedded data access parameter from the analog video signal

(see Fig. 2 B, met by when the original access parameter is Bits 10, allows for one copy generation, which is converted to 11, invalid for copy operation, mixed at 56 and recording the digital video to tape 13, is stored not with the same access parameter, such as, "10", but, stores, "11", access parameter)

col. 5 line 57-, see

Auxiliary data processing circuit 15 modifies the CGMS data when that data, which was extracted from the VBI signal, indicates that the analog HD signal **can be copied one time** (i.e., is partially copy protected). When the CGMS data has the bit value "10" (see FIG. 2), data processing circuit 15 **changes the CGMS data to the value "11," which represents that the HD signal that is to be** recorded on the magnetic tape is copy protected ...

- processing the stored digital video data in accordance with the received indication of data access restriction (with the recording done digital video to 13, when the parameter has been modified to "11", then on the next recording to be done where this tape is the source then a copy or another copy will not be permitted).

As amended and argued, the prior art fails to teach wherein the ***stored does not include any embedded access parameter.***

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Shear teaches rights management including allowing selective content use with various different control sets, such as Fig. 3B, Allow Frames for Use, while the control set includes Copy Once, which in light of Kory convert to no copy, but, certain frames can be used and do not comprise any copy protection information when copied because they are allowed to use certain portions but not all, as taught by Shear.

Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the prior art as applied by incorporating control sets for content that allow for use to selective allow portions of content use or various different levels of protection for content, as taught by Shear which would allow for exposure and potentially enhance revenue for content.

Regarding claims 17-18, the combination with Kori meets the limitations of:

- o plurality of different types of data access (Fig. 2B, three, no copy, valid for copies, valid for one copy);
- o controlling one of copy restriction (Fig. 2 B).

Claims 19-21 are deemed analyzed and discussed with respect to the claims above.

Furthermore, Kori further is deemed to meet the limitations of wherein when storing the video in digital memory an embedded data access parameter (Fig. 2 B, "valid for one copy generation") is not included (lost due to D/A conversion, also the original in this case is not included because it is changed to no copy) and preventing from access due to copy restriction (see arguments Supra).

Further regarding claims above, **Kori** discloses a various processors for controlling switches and related elements and interpreting restrictions but, fails to disclose a CPU and computer system.

The examiner takes official notice that what has been done in hardware is obvious to be implemented by a computer system with CPU and software to perform the same, therefore, it would have been obvious to one skilled in the art at the time of the

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invention to modify Kori by utilizing or replacing the hardware processors with a CPU/computer system and software, as software lends itself to be updated and re-down-loaded, as compared to hardware modifications, as is obvious to those skilled in the art.

The examiner cites a supporting reference below:

US-PAT-NO: 4593384

TITLE: Security device for the secure storage of sensitive data

APPL-NO: 06/684637

DATE FILED: December 21, 1984

Cited Passage:

Detailed Description Text - DETX (35):

The EX-OR gates 93 and 95, the data encryption device 97 and the data decryption device 99 can be implemented in hardware or the operations performed by those units can be performed as a function of software subroutines of the program contained in the PROM 75.

US-PAT-NO: 4531228

TITLE: Speech recognition system for an automotive vehicle

Detailed Description Text - DETX (44):

FIG. 9 shows a fourth embodiment of a voice detecting means of the speech recognition system according to the present invention. In this embodiment, the level detector 31, the threshold calculator 32, the start comparator 33, the timer unit 34, the OR gate 35, the memory unit 36, the threshold corrector 37 and the end comparator 38 described in the third embodiment shown in FIG. 8 are all incorporated within a microcomputer 200 provided with an analog-to-digital converter, a central processing unit, a read-only memory, a random-access memory, and input/output interfaces, etc. That is to say, some of the functions of the voice detecting means are implemented via arithmetic operations executed in accordance with appropriate software, in place of hardware.

Based on the above references the examiner renders a software implementation obvious to replace any hardware elements as is deemed obvious to those skilled in the art.

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Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claim 22 is rejected under 35 U.S.C. 102(e) as being clearly anticipated by Shear et al. (US 2001/0042043).

Regarding claim 22, Shear based on the above is deemed to clearly anticipate the limitations (Figs. 1C, 3, 3A-B, 7, 12, 15 A-, "Determine Available Local Rights"), of claim 22.

Allowable Subject Matter

1. Claims 1-15 allowed, based on the reasons of record in application 08/878,249 and current arguments.

Contact Information

Any inquiry concerning this communication or earlier communications should be directed to the examiner of record Vincent F. Boccio whose telephone number is (571) 272-7373.

The examiner can normally be reached on between Monday-Thursday between (7:30 AM to 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ali, can be reached on (571) 272-4105.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

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"<http://portal.uspto.gov/external/portal/pair>"

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vincent F. Boccio/
Primary Examiner